

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1720 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHUPATSINH SHIVSINH VAGHELA

Versus

REGIONAL TRANSPORT

Appearance:

MR JV JAPEE for Petitioner

MR NIGAM SHUKLA, APP, for Respondents

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 24/04/96

ORAL JUDGEMENT

The present application requires a partial recognition. The petitioner happens to be one Bhupatsinh Vaghela, a resident of a town under Sabarkantha district.

It appears that his motor vehicle, namely, a jeep came to be intercepted on or about December 10, 1995, on the allegation that in violation of the terms and conditions of the permit the said vehicle was found to be carrying passengers for hire and/or reward. The petitioner is asking for the custody of his vehicle which is with the Regional Transport Officer. The principal prayer in the present petition is for the release of the above said vehicle by the RTO.

2 The petition is being resisted by the respondents on the ground that there has been a composition under section 200 of the Motor Vehicles Act, 1988, not only in respect of this case but in respect of other eight cases also under which a large amount is required to be paid by the petitioner. The learned Government Counsel, Mr Nigam Shukla, wanted to read certain composition orders before me so as to persuade me to take a view that there has been a composition under section 200 of the Act of 1988. When the reference is made to the provisions contained in the said section of the Act, it is clear that there could be a composition in respect of certain offences. Assuming for the sake of argument that the offence allegedly committed by the petitioner could have been composed under section 200, then also, composition cannot be an unilateral act. A composition always presupposes a bilateral agreement under which an offence could be compounded. There is nothing on the record to warrant a conclusion that there has been such an agreement for composition under which the petitioner has agreed for composition. Naturally therefore, whatever is in the file of the RTO in nature of the composition orders cannot be said to be composition in eye of law and especially under section 200 of the Motor Vehicles Act, 1988. If there could have been a valid composition in this respect, the entire situation would get a turn. In that case the petitioner could be required to pay the composition charges before he gets the delivery or the custody of his vehicle. Here it is no so.

3 The only course now open is to direct the RTO to lay all the cases before the competent criminal court along with the muddamal vehicle. This should be done within a period of two weeks hereof. It should be the liberty of the petitioner to approach the said Court with a prayer of interim custody qua the vehicle in question. If such a prayer comes from the petitioner for the interim custody, the same shall have to be decided by the concerned court according to law and upon the merits and without being influenced by the present orders. Rule is made absolute. A copy of the present orders should be

made available to the learned Government Counsel as soon
as they are signed.

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